

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

Assigned On Brief October 12, 2001

ROBERT L. SMITH, JR. v. WARDEN LARRY CRAVEN, ET AL.

**Direct Appeal from the Circuit Court for Hardeman County
No. 9376 Jon Kerry Blackwood, Judge**

No. W2001-00955-COA-R3-CV - Filed January 9, 2002

Petitioner appeals from the trial court's order denying Petitioner's petition for writ of certiorari. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed; and Remanded

DAVID R. FARMER, J., delivered the opinion of the court, in which W. FRANK CRAWFORD, P.J., W.S., and HOLLY K. LILLARD, J., joined.

Robert L. Smith, Jr., *Pro Se*.

Tom Anderson, Jackson, Tennessee, for the appellees, Larry Craven and Randy Eckman.

MEMORANDUM OPINION¹

Robert L. Smith, Jr., filed a petition for writ of certiorari in the circuit court wherein he alleges that he is an inmate incarcerated in the Hardeman County Correctional Facility which is operated by Corrections Corporation of America. Respondent Larry Craven is identified as the warden of the correctional facility and respondent Randy Eckman as the associate warden.

The gist of the petition is that petitioner was denied the right to timely appeal an order of the general sessions court dismissing his civil warrant due to the fact that he was not notified of the

¹**RULE 10. MEMORANDUM OPINION.** This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION", shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

dismissal until the time to appeal to circuit court had lapsed.² The order of the circuit court was apparently entered *sua sponte* as the petition was filed April 5, 2001 and the order filed April 10, 2001. The record before us does not contain a response by the Respondents. The order of dismissal does not state the basis for the trial court's dismissal other than to say that "the Petition for a Writ of Certiorari is not well-taken and should be denied."

Section 27-8-106 of the Tennessee Code provides as follows:

The petition for certiorari may be sworn to before the clerk of the circuit court, the judge, any judge of the court of general sessions, or a notary public, and shall state that it is the first application for the writ.

Tenn. Code Ann. § 27-8-106 (2000).

In reviewing the petition before us, we have determined that it meets neither of the requirements of the statute. *See Depew v. King's, Inc.*, 276 S.W.2d 729 (Tenn. 1955); and *Drainage Dist. No. 4 of Madison County v. Askew*, 196 S.W. 147 (Tenn. 1917).

The order of the circuit court dismissing the petition for writ of certiorari is affirmed and costs of this appeal are taxed to the appellant, Robert L. Smith, Jr., for which execution may issue if necessary.

DAVID R. FARMER, JUDGE

²A party has ten days to appeal from an adverse decision of the general sessions court to the circuit court, where the case is heard *de novo*. Tenn. Code Ann. § 27-5-108.